

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDWARD EUGENE WILLIAMS,

Plaintiff,

v.

Case No. 2:19-cv-10283
District Judge David M. Lawson
Magistrate Judge Anthony P. Patti

ANDREOPOULOS & HILL, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION (ECF No. 90) TO AMEND HIS
FED. R. CIV. P. 55(b) MOTIONS (ECF Nos. 73, 74)**

Edward Eugene Williams is currently incarcerated at the Alabama Department of Corrections (ADOC) Staton Correctional Facility on a matter unrelated to the case at bar. (ECF No. 11.) Williams filed the instant matter *in pro per* on January 29, 2019 against twenty-six Defendants, and the Court permitted him to proceed *in forma pauperis*. (ECF Nos. 2, 5.) Since then, four Defendants have been dismissed. (ECF No. 94.)

Meanwhile, in the nearly three year life of this lawsuit, much effort – by the Clerk's Office, the USMS, and the Court – has been devoted to attempting service upon Defendants. (*See, e.g.*, ECF Nos. 6, 28, 56, 57, 58, 64, 69, 72, 78, 99, 100.) At this point, only twelve of the remaining twenty-two Defendants have appeared.

Put another way, ten Defendants – Hammer, Awada, Raines, Pappas, Huntoon, Arafat, Costigan, Al-Aridhi, Palm, and Naji – have yet to appear.

Plaintiff has previously sought both entry of default (*see* Fed. R. Civ. P. 55(a)) and entry of default judgment (*see* Fed. R. Civ. P. 55(b)), although not in that order. First, in April 2021, Plaintiff filed motions for “failure to appear,” “default judgment,” and “summary judgment.” (ECF Nos. 73, 74.) On June 3, 2021, I entered a report, which recommended that, “[t]o the extent Plaintiff seeks entry of default judgment pursuant to Fed. R. Civ. P. 55(b), Plaintiff has not first – or at least simultaneously – requested that the Clerk of the Court enter default as to Defendants Hammer and Awada.” (ECF No. 75, PageID.445.) Judge Lawson denied these motions on June 3, 2021. (ECF No. 87.)

Second, on June 4, 2021, Plaintiff filed a request for entry of default as to Hammer, Awada and Raines (and/or non-party Jeff Dunn) (ECF No. 88), as well as a seemingly related “motion to amend and order to show cause,” (ECF No. 90), by which Plaintiff seeks to amend his April 2021 motions for entry of default judgment and/or summary judgment as to Hammer and Awada (ECF Nos. 73, 74). Thus far, the Clerk of the Court has denied Plaintiff’s request for Clerk’s entry of default (ECF No. 88), because: (1) no summons had been returned executed as to Awada, Hammer, and Raines; and, (2) Dunn was not a party to the lawsuit. (ECF No. 89.)

Plaintiff's seemingly related "motion to amend and order to show cause" remains pending. Upon consideration, Plaintiff's motion (ECF No. 90) is **DENIED**. Plaintiff mentions, *inter alia*, "discovery of evidence," "suppression of material," "fund[s] that were dispensed to Joseph Awada," an "accounting of all Defendants," "[subpoenaing] records in discovery," and, seemingly, a reference to a "genuine dispute as to any material fact[.]" Fed. R. Civ. P. 56(a). (ECF No. 90, PageID.533 ¶¶ 1-2.) Still, these terms speak to the merits of Plaintiff's claims, *i.e.*, they do not illustrate that "a party . . . has failed to plead or otherwise defend[.]" Fed. R. Civ. P. 55(a). Accordingly, the Court finds no reason to amend Plaintiff's April 2021 Fed. R. Civ. P. 55(b) requests (ECF Nos. 73, 74) into a motion for entry of default under Fed. R. Civ. P. 55(a) as to Defendants Hammer, Awada, and Raines (and/or non-party Dunn). (ECF No. 90, PageID.534 ¶ 3.) Finally, to the extent Plaintiff requests a "further case management and scheduling order . . . ," (ECF No. 90, PageID.543), Plaintiff may renew this request once the Court has ruled upon Defendant Mulder's currently pending motion to dismiss (ECF No. 84) and/or once it is clear that any active and yet-to-appear Defendants have been served.

IT IS SO ORDERED.¹

¹ The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days after being served with a copy of this order within

Dated: November 3, 2021

s/ *Anthony P. Patti*

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).